

**COMMITTEE ON LIMITED JURISDICTION COURTS
MINUTES**

Wednesday, May 20, 2009
10:00 am to 3:00 pm
State Courts Building
Conference Room 345 A/B
1501 W. Washington Street
Phoenix, AZ 85007

MEMBERS PRESENT:

Honorable Antonio Riojas	Mr. Patrick Kotecki
Honorable Ted W. Armbruster – <i>telephonic</i>	Honorable Nicole Laurin – <i>telephonic</i>
Mr. C. Daniel Carrion	Honorable Kathy McCoy
Honorable Thomas L. Chotena	Mr. Doug Pilcher
Ms. Faye Coakley	Ms. Marla Randall
Honorable Timothy Dickerson	Ms. Lisa Royal
Ms. Joy Dillehay	Mr. Mark Stodola
Honorable Sam Goodman	Honorable J. Matias Tafoya
Honorable Jeffrey A. Klotz - <i>telephonic</i>	Honorable R. Michael Traynor - <i>telephonic</i>

MEMBERS ABSENT:

Honorable Phillip W. Bain	Honorable Dorothy Little
Honorable Maria Felix	

PRESENTERS/GUESTS:

Ms. Janet Scheiderer	Mr. Jeremy Mussman
Ms. JL Doyle	Mr. Jim Price
Ms. Dori Ege	Ms. Christi Weigand
Ms. Joan Harphant	Ms. Sharleen Decker
Ms. Cindy Trimble	Ms. Jennifer Jones
Mr. Ken Kung	Ms. Niki O’Keeffe
Ms. Patience Huntwork	Mr. Jerry Landau
Honorable Gary Donahoe	Ms. Jennifer Greene

STAFF:

Mark Meltzer	Tama Reily
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I. REGULAR BUSINESS

Several committee members and the Chair were delayed for the meeting due to a major traffic accident. Judge Kathy McCoy stood in as acting Chair for Judge Riojas.

A. Welcome and Opening Remarks

With a quorum present, the May 20, 2009, meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order by Judge Kathy McCoy, acting Chair, at 10:15 am.

New member Doug Pilcher was introduced and welcomed to the committee. Mr. Pilcher is the Court Administrator for the Phoenix Municipal Court. He also serves on the Commission on Victims in the Courts (COVIC) and the Committee on the Impact of Domestic Violence and the Courts (CIDVC).

Judge McCoy informed the committee that this would be her last LJC meeting.

B. Approval of February 18, 2009 Minutes

The minutes for the February 18, 2009, meeting of the LJC were presented for approval.

MOTION: To approve the minutes of the February 18, 2009, LJC meeting as presented. Seconded. Passed unanimously. LJC-09-010

II. BUSINESS ITEMS/POTENTIAL ACTION ITEMS

A. Supreme Court's Strategic Agenda

Ms. Janet Scheiderer, Director of the Court Services Division for the AOC addressed the committee on the planning of a new strategic agenda for 2010 – 2015. Ms. Scheiderer explained the planning process and the role that Arizona Judicial Council (AJC) standing committees play in the development of a strategic agenda. She reviewed various statistics on case filing trends along with other information affecting the courts. She discussed some of the Good to Great objectives that remain in place. In addition, she related some of the proposed strategic agenda initiatives discussed at the March 2009 AJC meeting.

Members were given an overview of the new Arizona Judicial Branch Strategic Agenda Planning Collaboration Tools website (www.sp2010.courts.az.gov), which has been set up to allow members to participate in and follow the progress of the new strategic agenda. Members were instructed on the registration process for accessing and using the tools on the site.

Ms. Scheiderer suggested that the members consider using meeting time or establishing a workgroup to discuss potential initiative proposals. Ms. Scheiderer stated that the committee's recommendations are needed by August. At that time, an AJC subcommittee will be formed to review initiative proposals received from other committees and to develop a plan that will be presented at the October 2009 AJC meeting.

Several members volunteered to participate in a strategic agenda workgroup.

Volunteers included the following committee members: Lisa Royal, Patrick Kotecki, Dan Carrion, Mark Stodola, Judge Tafoya, and Judge Goodman who will serve as Chair. Judge Bain was also nominated to participate in the workgroup.

MOTION: To establish a Workgroup on Strategic Planning to assist in developing potential initiatives for the new Strategic Agenda.
Motion seconded. Approved unanimously. LJC-09-011

B. ACJA § 6-209

Ms. JL Doyle, Manager in the Adult Probation Services Division of the AOC, presented proposed ACJA Section 6-209: Adult Probation Services to Limited Jurisdiction Courts. The purpose of this section is to codify an existing practice affecting offenders sentenced in limited jurisdiction courts, who are then transferred to a superior court adult probation department for supervision. The code would govern the operations and supervision requirements. Ms. Doyle noted that the code has been passed by the Committee on Probation and the Committee on Superior Court.

MOTION: To approve ACJA § 6-209: Adult Probation Services to Limited Jurisdiction Courts, subject to the striking of references to felonies.
Motion seconded. Approved unanimously. LJC-09-012

NOTE: At this time, Judge Riojas arrived and the chair was turned over to him. He thanked Judge McCoy for acting as Chair during his delay.

C. Interstate Compact Workgroup

Ms. Dori Ege, Manager in the Adult Probation Administrative Services Unit, and Mr. Mark Stodola reported that the Interstate Compact Workgroup met in April. The workgroup developed a survey for distribution to LJ courts statewide that would gather information on the courts' experience and manner of dealing with Interstate Compact cases. A draft of the survey was provided to members for input and suggested changes. The workgroup is requesting that the LJC approve the survey for distribution.

MOTION: To approve the Interstate Compact survey as presented. Motion seconded. Approved unanimously. LJC-09-013

D. Juvenile and Defensive Driving Schools

Ms. Joan Harphant, Chair of the LJC Defensive Driving Subcommittee, and Ms. Nancy Swetnam, Director of the Certification and Licensing Division for the AOC, presented on the issue of inconsistent practices in LJ courts related to juvenile traffic cases. In question is whether a juvenile is required to appear in court prior to attending defensive driving school. The courts' inconsistencies pose problems for traffic schools, which are unsure whether the juvenile requires court approval prior to registering for the class. The subcommittee would like to survey all Arizona counties to determine what courts that require prior court appearances and what

courts have declined jurisdiction on civil traffic matters. The results of the survey would then be posted on the DDS website so that traffic schools can accurately advise students if they need to contact the court prior to registering for classes.

MOTION: To recommend that the LJC Defensive Driving Subcommittee complete a survey of LJ courts in the 15 counties to determine which courts have declined jurisdiction in civil traffic matters for juveniles. Motion seconded. Approved unanimously. LJC-09-014

Ms. Harphant raised a second issue regarding an *enhanced class* that is being offered by defensive driving schools. The class is intended to function as a refresher course and is offered to both juveniles and senior citizens. The fee for the class is thirty-five dollars, however, there is no diversion fee being collected. The certificate awarded for the class looks nearly identical to a certificate for completion of defensive driving school for diversion purposes. Defendants are bringing a certificate for an enhanced class to court, however, the certificate does not meet the requirements for a diversion class.. Ms. Harphant and Ms. Swetnam recommended that judges do not accept these certificates, but rather, rely strictly on the electronic transmissions they receive from the AOC database.

E. Financial Advisory Workgroup

Ms Cindy Trimble, Manager, and Mr. Ken Kung, Financial Specialist, in the Court Services Court Operations Unit of the AOC, reported that they are in the process of forming a Financial Advisory Workgroup to review the Minimum Accounting Standards (MAS). Since MAS came into use by the court community in January 2008, the need for clarifications and technical corrections has become apparent. Ms. Trimble stated they are seeking volunteers from LJC to participate in this workgroup. The workgroup would also include members from the Committee on Superior Court. The goal is for the workgroup to have something prepared to go before the AJC in December 2009. They would like to hold the first workgroup meeting around the second week in June. Members interested in participating in the workgroup were asked to contact Cindy Trimble at CTrimble@courts.az.gov or 602-452-3795.

F. Criminal Rules Video-Conference Advisory Committee

Judge Antonio Riojas, Chair of the Criminal Rules Video-Conference Advisory Committee (CRVAC), Judge Sam Goodman, and CRVAC members Judge Gary Donahoe and Mr. Jeremy Mussman, addressed the committee regarding proposed amendments to Rule 1.6, Arizona Rules of Criminal Procedure, which provides for court appearances of defendants via video-conferencing. Judge Riojas noted that a majority of CRVAC supports the proposed amendments; however, a minority of the CRVAC membership opposes the amendments.

Judge Riojas summarized the proposed amendments, explaining they would expand the use of video-conferencing in court proceedings while still upholding the rights of a defendant. He stated that the amendments include provisions to ensure

adequacy of interactive audiovisual systems, availability of interpreter services, and compliance with victims' rights laws. He also reported that much of the dissent from the majority proposal centers on the inclusion of initial appearances as being appropriate for video-conferencing in the discretion of the court. However, he explained that after much consideration, the majority concluded that conducting initial appearances by video-conference would not violate the defendant's constitutional rights, or in any way represent an injustice.

Mr. Mussman related the minority's opposition. He is not opposed to the idea of video-conferencing, however he believes the current proposal is overly broad, premature, lacks sufficient technical standards, and is vulnerable to legal challenge. He also believes the proposal effectively violates the defendant's constitutional rights to appear and to defend (Article II, section 24) because in certain cases it gives sole discretion to the court to determine whether video-conferencing will take place. The minority argues that while video-conferencing is generally a good idea, the ambiguity of the majority proposal, its failure to recognize technical inadequacies, and a disregard for the rights of the defendant, make it unsupportable.

Judge Gary Donahoe countered the minority view, maintaining that the majority proposal was carefully crafted and is consistent with case law. He observed that many of the minority's arguments are based on extraordinary cases which rarely occur, and in such cases, it is up to the judicial officer to consider the circumstances of the case and to make a decision appropriate to those circumstances. Judge Donahoe stated that the majority's view entrusts judicial officers to exercise sound judicial discretion.

Extensive discussion ensued. In response to committee members' comments and questions, the following points were put forth:

- Regarding the rights of the defendant to appear (Article II, Section 24), the rule as written is consistent with case law which considers appearing via video-conferencing as "constitutionally adequate" and "functionally equivalent" to a physical appearance in the courtroom.
- Rather than requiring new and costly technology, the expectation is that the technology currently in place can be adapted to fully ensure the defendants ability to participate in the proceedings and provide confidentiality for communications between the defendant and counsel. Cost savings, while not a driving force, are an expected and significant benefit of video-conferencing.
- The current Rule 1.6 provides that there be a stipulation for all proceedings, however, it is not required to be a written stipulation in the case of initial appearances and not-guilty arraignments. In addition, it also holds that the court shall determine that the defendant knowingly and voluntarily agrees to appear via video-conferencing.

MOTION: To support the Criminal Rules Video-Conference Advisory Committee's majority version of proposed amendments to Rule

1.6, Arizona Rules of Criminal Procedure as presented. Vote: 8-8-0.
0. Motion failed. LJC-09-015

G. E-Filing Implementation

Jim Price, Manager in the Information Technology Division of the AOC, and Christi Weigand, Specialist in the Court Services Caseflow Management Unit, brought members up to date on the status of the E-filing project. Mr. Price discussed the development schedule and target dates for various courts to begin E-filing. He reported they are currently working on small claims and general civil filings.

Ms. Weigand gave an overview of the e-filing site, the various forms that are being developed, and demonstrated how a small claim would be processed. The e-file site will be at [azturboCourt.gov](http://www.supreme.state.az.us/eCourts/MainMeetings.htm). Members can get information about the e-filing project at <http://www.supreme.state.az.us/eCourts/MainMeetings.htm>.

H. Pandemic Planning

Ms. Niki O’Keeffe, Director of the Administrative Services Division of the AOC, addressed the committee on the status of the H1N1 flu. She discussed the challenges faced by the court community during an outbreak of this nature. She also advised members that the Public Health Bench Book is available online on the Wendell website. In addition, she provided the website address for Emergency Preparedness information (<http://supreme8/status/>), which gives information and numerous outside resources regarding public health. Written materials on Pandemic Emergency Preparedness were provided.

I. Legislative Update

Jerry Landau, Director of Government Affairs for the AOC, reported that legislation impacting limited jurisdiction courts is not moving due to the Legislature’s focus on the budget.

Mr. Landau also reminded members that the Friday legislative conference call would not take place the Friday of Memorial Day weekend.

III. OTHER BUSINESS

A. NEXT MEETING:

Wednesday, September 16, 2009

State Courts Building
Conference Rooms 119 A/B
10:00 a.m. – 2:00 p.m.

B. Good of the Order/Call to the Public

No public response.

The meeting was adjourned at 2:00 p.m.